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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,205	08/23/2001	Frederick A. Myers	1606001/0482494(511)	1187

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FROST BROWN TODD LLC  
2200 PNC Center  
201 E. Fifth Street  
Cincinnati, OH 45202-4182

EXAMINER

KING, ROY V

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/938,205

Applicant(s)

MYERS ET AL.

Examiner

Andrew L Oltmans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14-68, 70, 71 and 74-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 74-77 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9-11, 14-22, 24-28, 30-52, 56-64, 66-68, 70 and 71 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8, 23, 29, 53-55 and 65 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Note Regarding Claims***

1. The examiner has reconsidered the allowable subject matter indicated in the previous Office Action. Therefore, the Notice of Allowability has been withdrawn and this NON-FINAL Office Action is being issued. Claims 1-11, 14-68, 70-71 and 74-77 remain pending in this application. The examiner apologizes for any inconvenience this may have caused.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Japanese Patent JP 08-325482 A Nippon Paint Co. in view of Applicant's Admitted Known Prior Art and Sakamaki et al. 3,930,899***

NOTE: The references to JP '482 are to either the English Language abstract or the English Language translation provided by the examiner.

3. Claims 1-4, 7, 9-11, 14-22, 24-28, 30-52, 56-64, 66-68 and 70-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent JP 08-325482 A Nippon Paint Co. (JP

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'482; cited on IDS filed May 9, 2003) in view of Applicant's Admitted Known Prior Art and Sakamaki et al. 3,930,899 (Sakamaki) .

JP '482 teaches a method of producing a antimicrobial polymer coated metal sheet, wherein the method includes the steps of providing a metal sheet, including a metal strip (claim 3), wherein the metal includes Fe (carbon steel), Zn, Al, and galvanized steel, as recited in claims 1, 2, 4, 7, 9-11, 66 and 70-71 (paragraph [0023]-[0026]), cleaning the surface of the substrate, as recited in claims 1 and 17-18 (paragraph [0020]), pretreating the substrate to promote adhesion by applying a zinc phosphate conversion coating, as recited in claims 1, 19-22, 24-28 and 30-33 (paragraph [0024]), applying the polymer coating by rolling, as recited in claims 1 and 61-63 (paragraph [0020]), wherein the antibiotic powder wt% is in the claimed range, as recited in claim 1 (paragraph [0012]), wherein the core particle includes a particle including the claimed zeolite and the antibiotic metal, zinc, copper, lithium and silver , as recited in claims 1 and 34-52 (paragraphs [0008], [0007], and [00026]), wherein the coated substrate is subjected to a final treatment (i.e. drying) to at least partially harden the coating, as recited in claims 1, 64 and 68 (paragraph [0012] and [0021]). JP '482 teaches that additional ingredient may be added to the polymer composition, as recited in claim 14-16 and 60 (paragraph [0016]).

JP '482 fails to meet all of the limitations of the instant claims because JP '482 does not explicitly teach the cleaning step instantly claimed in claim 1.

Applicant admits in paragraphs [0032]-[0033] that various cleaning methods, including those cleaning methods instantly claimed, are known in the art.

One of ordinary skill in the art would have found the cleaning (i.e. degreasing) step obvious because one of ordinary skill in the art would have been motivated to provide a clean

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surface for subsequent coating. The particular chemicals utilized for the cleaning, including those chemicals instantly claimed, are known in the art, as admitted by applicant in paragraphs [0032]-[0033], and are particularly suitable for cleaning/degreasing prior to pretreatment, as taught in Sakamaki et al. 3,930,899 (col 2):

**35 2024. The test piece thus fabricated was then treated to have its surface alkaline-degreased in the mixture of 25 g/l of sodium carbonate and 25 g/l of sodium tertiary phosphate at a temperature lower than 70° for 2 minutes. After washing in water, the alkaline-degreased**

*Allowable Subject Matter*

4. Claims 74-77 are allowed.
5. Claims 5-6, 8, 23, 29, 53-55, and 65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
  - a. A primary reason for the allowance of claims 5-6 and 8, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed base metals.
  - b. A primary reason for the allowance of claims 23 and 29, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed additives to the phosphating composition.
  - c. A primary reason for the allowance of claims 53-55, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed

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method wherein the method includes the claimed second coating on the anti-microbial powder.

d. A primary reason for the allowance of claim 65, under the above conditions, is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed deoxidizing step.

e. A primary reason for the allowance of claim 74 is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed base metal.

f. A primary reason for the allowance of claim 75 is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed additives to the phosphating composition.

g. A primary reason for the allowance of claims 76 is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed core particles associated with a first and second antimicrobial metal component.

h. A primary reason for the allowance of claim 77 is that the prior art fails to teach, either alone or in combination, the instantly claimed method wherein the method includes the claimed deoxidizing step.

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*Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L Oltmans whose telephone number is 571-272-1248.

The examiner can normally be reached from 7:00 to 3:30, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew L. Oltmans  
Patent Examiner  
Art Unit 1742

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